

Department of Infrastructure Northern Ireland

Consultation of the Proposed Content of the new Road Safety Strategy for Northern Ireland to 2030



A response by the Association of Personal Injury Lawyers

January 2022

We welcome the opportunity to respond to the Department for Infrastructure's consultation on a Road Safety strategy to 2030. We welcome all steps to make the roads in Northern Ireland safer and agree with the priorities set out in the strategy.

We have committed on those questions within our remit.

Do you agree that the Safe System approach should underpin the new Road Safety Strategy?

We agree that the Safe System approach should underpin the new Road Safety Strategy. We are particularly pleased that one of the focuses is on safer roads and road design. In order to encourage more sustainable travel such as cycling and walking, the fabric of the roads must be adapted to accommodate these modes of travel. Injuries to cyclists from potholes can be severe, and even fatal, and their presence also puts cyclists in danger as they are forced to weave into other traffic to try and avoid them. The general condition of the roads should be of greater priority than increasing the number of cycle paths. Cycle paths themselves must be well designed and not simply a tokenistic gesture – they are often retrofitted onto roads which are unsuitable and narrow. Poorly installed cycle lanes can be more dangerous than roads where there are no cycle lanes at all, as they may encourage drivers to pass the cyclist without considering whether they are giving them enough room.

We are also pleased to note that there will also be a focus on the post-crash response, including learning from collisions and acting on what is learnt to prevent similar incidents in the future.

Safe people

Do you agree that these are the key priority areas which will help to deliver on the outcome of our people will be safer on our roads?

We agree with the priority areas highlighted. We welcome measures relating to education and training to ensure that all road users have the appropriate attitudes, skills and knowledge to ensure safe road behaviour and to reduce the chances of human error being made. Drivers of motor vehicles should be trained as part of the driving test on how to act around vulnerable road users on the road, and cycle safety should be a compulsory part of the school curriculum. Education and training must also take into account emerging road traffic trends, such as the increased use of micromobility vehicles such as e-scooters – those who operate these vehicles should be required to undertake a test akin to a driving theory test if they do not already hold a provisional or full driving license.

In relation to ongoing consideration of policies, laws and regulations aimed at improving road user behaviour, we welcome those outlined in the strategy but would also suggest the laws around mobile phone use are strengthened. The consultation makes reference to mobile phone usage as an example of human error causing incidents on the roads. Mobile phone usage can significantly reduce driver awareness and cause collisions. While education on

this issue is important, and effective awareness campaigns can make people think twice before engaging with this behaviour, we believe that Northern Ireland should follow Great Britain in widening the scope of offences relating to mobile phone use while driving. From next year, laws in Great Britain will go further to ban drivers from using their phones to take photos or videos, scroll playlists and play games while at the wheel. We have recommended that this is taken further, and that the Government should look into a specifically developed “driver mode” which will allow only limited functions, and which drivers will be required to activate before making a journey with their phone. The ban should then include all use of a phone while driving, even if secured in a cradle, save for those limited functions available in “driver mode”. The law should also reflect advances in technology which mean people can communicate in other ways that are just as distracting as a handheld mobile phone – for example receiving messages and making calls via a “smart” watch on their wrist. We also recommend that the Northern Ireland Executive should introduce a broader ban on mobile phone use.

Any amendments to the Highway Code should be accompanied by an awareness campaign. Using social media platforms such as Twitter and Instagram will reach a wide range of road users and is a modern and forward-thinking way of ensuring information on the new rules within the Code are acknowledged.

If not, what other priority areas, in your view, should be considered and why?

We believe that is sensible for all regular road users to hold some form of insurance. Insurance will ensure that if the road user becomes involved in an accident, those who are injured are able to access compensation. One priority area should be an awareness campaign to encourage regular road users to hold some form of insurance. We set out our concerns in relation to micromobility vehicles later in this document, but in relation to insurance for these vehicles, we believe that users should be mandated to hold some insurance before using them on the roads. It is clear that there is a risk of serious injury or fatalities from these vehicles – both to users themselves and others. Certain features of these vehicles such as the smaller wheels on e-scooters, the speeds that people can achieve with minimum effort, and the distances that the vehicles are likely to be used for travel, make them more prone to being involved in accidents than, for example, standard bicycles. Therefore, mandated insurance for users of these vehicles is vital should these vehicles become legalised.

Safe roads

Do you agree that these are the key priority areas which will help to deliver on the outcome of safer roads for all?

We agree. We are particularly supportive of the suggestion that there should be investigations into the nature of collisions on rural roads to identify common factors and seek solutions to mitigate risks. We suggest though, that this should be taken further, with a central and nationwide body dedicated to carrying out thematic reviews of road collisions being established. This body could identify themes and make recommendations for avoiding similar incidents in the future. There is no reason why investigations and learning for the future should only take place in relation to collisions on rural roads – an investigatory body should cover the whole of Northern Ireland. Investigating collisions and making recommendations to prevent future incidents would be of benefit to those injured or bereaved through road collisions - it is likely that they would find some comfort and closure in knowing that action was being taken to prevent similar accidents happening to others in the future.

Safe vehicles

Do you agree that these represent the key challenges that may impact on our ability to deliver on the outcome of safer vehicles for all?

We agree. We are pleased to note that the benefits and risks associated with technical advances are being considered as a key challenge. The nature of vehicles on the road across Northern Ireland is likely to undergo change between now and the end of this strategy, and it is vital that there is regulation in place to ensure that people can continue to travel safely. There will be increased use of automated vehicles and electric powered micromobility vehicles, in particular.

In relation to automated vehicles, there needs to be education for drivers on their responsibilities when a vehicle is partially automated – drivers need to be clear about when they need to remain in control and what they are permitted to do behind the wheel when automation is in place.

Strict liability also needs to be in place for vehicles capable of driving themselves, including cars with partial automation where a human is required to monitor the car even in automated mode. If a vehicle is capable of driving itself, then the motor insurer should be automatically liable for any civil claim arising as a result of the car being involved in a collision. It is critical that injured people are able to access compensation to put them back into a position they would have been in if they had not sustained injuries as a result of a collision. Without strict liability, injured claimants would be denied access to compensation, being forced to pursue complex and costly product liability claims against well-resourced manufacturers. These claims are inviable for individual claimants and therefore unjust. Part 1 of The Automated and Electric Vehicles Act (which does not apply in Northern Ireland) provides for strict liability where a car falls within the definition of “driving itself”, meaning if the car is operating in a mode in which it is not being controlled, and does not need to be monitored, by an individual. APIL has argued that the Act does not go far enough, as it does not allow for strict liability in cases of partial automation. For example, the Act would not provide for strict liability where a car which can reach a certain speed and maintain that speed without driver interference, subsequently crashes because it fails to detect a hazard and brake in time to avoid a collision. There must be consideration of how the law will be amended in Northern Ireland to protect those injured by automated vehicles, and we urge the Northern Ireland Executive to introduce provisions for strict liability, ensuring that the provisions go further than those in place in England, Wales and Scotland, providing for strict liability in the event of partial automation.

Do you agree that these are the key priority areas which will help us deliver on the outcome of safer vehicles for all?

We agree with the key priority areas set out. We welcome that as part of the strategy, the findings from the e-scooter trials in Great Britain will be taken into account. Recent data from the Department of Transport has revealed that in the first 6 months of 2021, there were 931 casualties involved in accidents with e-scooters in Great Britain. 79 per cent of these were e-scooter users themselves, 14 per cent were pedestrians. It is clear therefore, that these vehicles have the potential to harm, and their use must be carefully controlled. As set out above, we believe that those using e-scooters (or other micromobility vehicles) must have insurance in place. Further, it is acknowledged that users of these vehicles are themselves vulnerable, and far more likely to be injured in an accident than a motorist, and it is vital for the user's safety, and for the safety of other vulnerable road users, that minimum safety standards – relating to both the vehicle and the user- are put in place. We believe that

micromobility vehicle users must be required to wear a helmet, as – we believe - should all users travelling on vehicles on the roads.

Micromobility vehicles should be permitted onto the roads, but it is vital that there are strict minimum safety and construction standards that must be met by the vehicles to ensure that they are roadworthy. There is also uncertainty at present over the legality of micromobility vehicles – it is likely that many users do not appreciate that they are not allowed to use these vehicles on the road or pavement. Once the vehicles are legalised, the public must be informed, clearly, which micromobility vehicles can be used, and which vehicles are prohibited.

There must also be efforts to change driver attitudes to other road users. Unfortunately, the infrastructure of the UK's roads is not such that those riding micromobility vehicles will always be able to travel in a separate lane or path to other motor vehicles. As seen with cyclists, drivers do not always give these road users the space that they need when passing them. There needs to be education for drivers, and we call for awareness of how to act around micromobility vehicle users to be included as part of motor vehicle driving tests, and as part of the re-education process when someone is convicted of a relevant road traffic offence. Equally, there needs to be protection for other vulnerable road users from micromobility vehicles. Where these vehicles are operating in a space where there are pedestrians or other vulnerable road users, there should be a speed limit of 12.5 mph for all vehicles driven in this space. There should also be a maximum speed that these vehicles can reach, as part of the minimum standards for manufacture.

Any queries about this response should be, in the first instance, directed to:

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